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WORKDAY, INC.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

WORKDAY, INC., a Delaware
corporation,
Plaintiff,

v.

WASHINGTON STATE UNIVERSITY
and DOES 1 through 10,
Defendants.

No.

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF - 1
Case No. _____

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1 Workday is one of the world’s leading enterprise software companies.
2 Approximately 40% of the Fortune 500 use Workday and its innovative cloud-
3 based, integrated solutions. Workday brings this action to protect its trade secrets
4 from disclosure to a private, for-profit market research company called the
5 Tambellini Group. The information is in the possession of Washington State
6 University (“WSU”) because Workday bid for—and won—a contract to provide
7 WSU with its software solutions. The Tambellini Group has made a public records
8 request seeking numerous documents from WSU regarding Workday’s products
9 and services, with the stated goal of using the information to “advise clients”—
10 meaning that it could be sold to competitors.

11 Workday is not objecting to disclosure of most of the information sought by
12 the request. But Workday has identified a handful of documents that contain
13 confidential and proprietary trade-secret information that should not be disclosed,
14 particularly when the information could then be purchased by Workday's
15 competitors.

16 PARTIES

17 1. Plaintiff Workday, Inc. (“Workday”) is a Delaware corporation with
18 its headquarters and principal place of business in Pleasanton, California.

19 2. Defendant WSU is a public research university organized under the
20 laws of the State of Washington and is located and headquartered in Pullman,
21 Washington.

22 JURISDICTION AND VENUE

23 3. This Court has subject-matter jurisdiction over this dispute under
24 28 U.S.C. § 1332 because the matter in controversy exceeds \$75,000, exclusive of
25 interest and costs, and because the Plaintiff is a citizen of a different state than the
26 Defendant.

COMPLAINT FOR INJUNCTIVE AND
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1 4. This Court also has subject-matter jurisdiction over this dispute under
2 28 U.S.C. § 1331 because this matter arises under the laws of the United States.
3 Specifically, adjudication of the First Cause of Action requires resolution of a
4 substantial question of federal law. In particular, the Court must determine
5 whether Workday’s proprietary business information qualifies for trade secret
6 protection under the federal Defend Trade Secrets Act, 18 U.S.C. §§ 1836, *et seq.*,
7 in order to determine whether it is exempt from disclosure under the Washington
8 Public Records Act.

9 5. Venue is appropriate under 28 U.S.C. § 1391 because WSU is
10 headquartered within the Eastern District of Washington and, on information and
11 belief, maintains Workday’s confidential information within this District.

12 **FACTUAL ALLEGATIONS**

13 ***The Workday Platform***

14 6. Workday is a pioneer in software as a service business applications. It
15 develops and markets cloud-based enterprise resource planning (“ERP”) software.
16 The Workday platform integrates finance, human resource, and planning
17 applications into a single, seamless system. Workday’s products include a
18 software system tailored to the needs of higher-education institutions.

19 7. Before Workday, institutions generally used on-premises human
20 resources, finance and payroll solutions that were difficult to implement and
21 expensive to maintain and update. Workday created technology that offers these
22 solutions in a cloud-based platform that is far more cost effective and responsive.

23 8. In addition to being hosted in the cloud rather than hosted on-site, the
24 Workday platform also seamlessly integrates large enterprises’ functionalities.
25 Previously, large entities had to use several different platforms to handle different
26 aspects of their businesses, such as payroll and inventory. Maintaining separate

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1 systems has many drawbacks, as the various systems are not necessarily
 2 interrelated, do not share terminology or unified processes, and do not centralize
 3 necessary data.

4 9. The Workday platform revolutionized ERP software by providing a
 5 single, fully integrated solution for an enterprise's core functions. Competitors
 6 have attempted to achieve this integration by cobbling together several distinct
 7 applications into a single program and have not yet achieved Workday's unified
 8 structure.

9 10. Workday's software is not available to the general public. Rather,
 10 Workday provides its software and related instructions, manuals, and training
 11 materials only to those who sign a nondisclosure agreement ("NDA"). This is
 12 because the Workday platform's combination of capabilities and processes is
 13 proprietary and unique, and public disclosure of the information would enable
 14 competitors to gain an advantage by mimicking the functionality of the Workday
 15 platform. The information would provide a competitor means to discern the
 16 precise functionality, architecture and underlying programming of Workday's
 17 software.

18 ***WSU's Request for Proposal and the Tambellini Group's PRA Request***

19 11. In October 2017, Workday submitted a response to a request for
 20 proposal that WSU had issued in connection with its planned acquisition of ERP
 21 software (the "Proposal"). The Proposal detailed the capabilities of the Workday
 22 platform over the span of more than 200 pages. The Proposal also included several
 23 attachments, as relevant here: (1) a 64-page spreadsheet with responses to WSU
 24 inquiries regarding its ERP system specifications ("System Requirement
 25 Spreadsheet"); (2) Workday Business Process Definitions; (3) Workday Standard
 26 Reports; and (4) Workday Disaster Recovery Process.

1 12. Workday provided the information to WSU pursuant to a mutual
2 NDA, a true and correct copy of which is attached hereto as **Exhibit A**. As the
3 NDA required, Workday conspicuously identified 29 of the 207 pages of the
4 Proposal as containing Workday confidential and proprietary trade-secret
5 information. Workday also specifically noted where the confidential information
6 included Workday trade secrets, encompassing each of the attachments listed
7 above. Because Workday designated the records as proprietary, WSU was
8 required under the NDA to maintain their confidentiality, and could not disclose
9 them, except as required by law.

10 13. In June 2018, Workday ultimately was awarded the contract with
11 WSU that was the subject of the Proposal.

12 14. On October 3, 2019, WSU informed Workday that it had received a
13 request under the Washington Public Records Act (“PRA”) from the Tambellini
14 Group, a private market research group. The Tambellini Group focuses on the
15 educational technology market. It advises vendors of education technology
16 solutions (like Workday or its competitors), and investment firms as well as higher
17 education institutions on the marketing, development, and selection of technology
18 solutions.

19 15. The PRA request sought “[a] complete copy of Workday’s final
20 submitted technical, functional, and price proposal responses,” including additional
21 documents reflecting “Workday’s representations concerning functionality and
22 features of [its] proposed offering.” WSU stated that it would release the
23 responsive documents unless Workday obtained a court order preventing it from
24 doing so.

25 16. Workday identified a narrow universe of information in the proposal
26 and attachments that included proprietary, confidential and/or trade secret

1 information and identified that information to WSU. WSU agreed to redact certain
2 portions of that information from its response to the request, but stated that the
3 balance of Workday's Proposal would be subject to disclosure. WSU informed
4 Workday that it intended to disclose that information unless Workday sought a
5 court order by December 30, 2019.

6 ***Proprietary portions of Workday's Proposal***

7 17. As explained above, portions of Workday's Proposal that WSU
8 intends to disclose, including its attachments, contain proprietary, confidential
9 trade-secret information (the "Protected Information"). They are described in
10 Paragraphs 18 through 24 below.

11 18. Section 32 of the Proposal, in the "Application Architecture" portion
12 of the Proposal, concerns system availability and performance during peak usage.
13 This section describes how Workday manages data and request processing, the
14 technology by which Workday performs this, and more particularly how it scales
15 to very large volumes in an always-consistent way. This is Workday's core
16 intellectual property and a key technology differentiation against Workday's
17 competition. Public dissemination of this data would permit competitors to
18 understand how Workday implements its technology and help them recreate
19 Workday's core intellectual property.

20 19. Section 57 discusses Workday's accessibility features. "Accessibility
21 features" are those that enable all individuals to access Workday's technology,
22 such as speech recognition software and software that audibly reads the screen for
23 the visually impaired. This section of the Proposal describes the Workday
24 platform's then-available accessibility features, which remain available to date.
25 Disclosure of this information would allow competitors to copy Workday's feature
26 list rather than independently develop accessibility plans. It also would reveal to

1 competitors the features Workday cannot provide, which would be of significant
2 value to competitors because—for example—they could market their products to
3 emphasize capabilities that Workday does not have.

4 20. All four attachments to the Proposal also contain Workday trade
5 secrets and are not lawfully exposed in the public domain.

6 21. The System Requirement Spreadsheet provides a highly detailed view
7 into Workday's application functionality. The document goes into granular detail
8 about the application's capabilities and limitations, and its disclosure would allow
9 Workday competitors to build a feature/function map across Workday's full
10 product suite and would give them an unfair competitive advantage because they
11 would know what Workday can and cannot offer.

12 22. The Workday Business Process Definitions provides detail about each
13 of the processes that the Workday platform may run. None of these processes
14 relate specifically or are unique to WSU. As with the System Requirement
15 Spreadsheet, disclosure would allow Workday competitors to build a
16 feature/function map across Workday's full product suite and would give them an
17 unfair competitive advantage.

18 23. Similarly, the Workday Standard Reports provide detail about each of
19 the reports that the Workday platform may run. None of these reports are unique
20 to WSU. Disclosure of these reports would give Workday competitors an unfair
21 competitive advantage.

22 24. The Disaster Recovery Process document comprehensively lays out
23 Workday's plan in response to events that affect the availability of its service to
24 customers. Workday's ability to operate against a defined service-level agreement
25 (without caveat)—in this instance, responding to outages—is a key differentiator
26 of its service relative to competitors. The document describing Workday's

1 Disaster Recovery Process details a significant and distinct portion of how
2 Workday operates its service and maintains a competitive differentiation on
3 service-level agreements.

4 ***Trade-secret status of the Protected Information***

5 25. The Protected Information described above is the result of years of
6 substantial work and investment by Workday to develop a unique set of
7 capabilities and services for its ERP platform. The scope of capabilities,
8 limitations, structure, and services relating to the Workday platform are not
9 generally known.

10 26. Workday carefully maintains the confidentiality of the Protected
11 Information described above. It does not market or sell its platform to the general
12 public. In order to license Workday software—or even receive confidential
13 information about it—the customer or potential customer must sign an NDA like
14 the one WSU has executed, and Workday clearly marks its proprietary data, as it
15 did in its Proposal and attachments. The NDA imposes reproduction and
16 disclosure restrictions upon users to ensure that Workday’s proprietary information
17 remains confidential. Workday employees also agree to maintain the
18 confidentiality of Workday’s proprietary information, and Workday maintains its
19 data on a secure server. Even customer-facing documents receive protection
20 beyond the NDA. Workday maintains an internet website that provides
21 information and training materials to customers. In order to access these materials,
22 however, a user must log in with Workday-issued credentials. Neither competitors
23 nor members of the public are able to access materials on the website by legitimate
24 means.

25 27. Workday has not, and would not, license its platform to a competitor.
26 Because competitors are unable to license the product from Workday and may not

1 obtain trade-secret information from Workday's customers, competitors have no
2 legitimate means of collecting the detailed data about Workday's functionality and
3 structure that Workday included in the Proposal to WSU.

4 28. Maintaining the secrecy of the information preserves its substantial
5 value to Workday. Workday's fully integrated structure, and the ability to run
6 business processes and reports across that structure, are what set Workday apart
7 from its competitors. Workday obtains a substantial competitive advantage
8 through its ability to offer its unique set of reports and processes within its
9 structure to medium and large enterprises.

10 29. Workday would suffer substantial and irreparable harm if WSU were
11 to disclose the Protected Information. Most obviously, disclosure would
12 compromise the information's trade-secret status, and would expose Workday to a
13 competitor's misappropriation of this data. Workday would also lose the
14 substantial competitive advantage it obtained through years of developing its
15 proprietary set of capabilities and services. Competitors would be able to use the
16 information, not only to understand Workday's functionality and limitations, but to
17 infer the architecture of its platform and the means by which Workday achieves its
18 capabilities. This would provide competitors with a substantial and unfair
19 competitive advantage, as they could avoid years of costly research and
20 development efforts, and target their research to copy Workday's capabilities and
21 exploit its limitations.

22 30. The threat of disclosure also hampers the ability of Workday (and
23 undoubtedly others in the industry) to be fully candid about its products. With the
24 benefit of an NDA, Workday was able to fully and honestly address WSU's
25 specific needs and candidly explain whether and to what extent its platform may
26 have fallen short of WSU's requests. If Workday's trade secrets are subject to

1 disclosure as a result of responding to requests for proposals, it could limit the
2 amount of information it discloses—just as any other innovative company with
3 valuable intellectual property may be forced to do. As a result, public agencies
4 like WSU would not be able to obtain the same quality of information to guide
5 them in substantial purchases of software.

6 31. It would be difficult to overstate the value of maintaining the
7 confidentiality of Workday’s trade secrets—and the cost of disclosure. Workday
8 has invested billions of dollars to attain technological differentiation and superior
9 functionality over its competitors, which is embodied in the Protected Information
10 at issue. These trade secrets are the means by which Workday is able to attract
11 lucrative contracts from medium and large institutions that are valued at from tens
12 of thousands to millions of dollars. Disclosure of Workday’s trade secrets would
13 jeopardize its technological differentiation and result in the loss of substantial
14 business opportunities. The value of Workday’s trade secret information thus
15 easily exceeds \$75,000.

17 **FIRST CAUSE OF ACTION**

18 **Injunctive Relief Under RCW 42.56.540**

19 32. Workday re-alleges and incorporates by reference the allegations
20 contained in all previous paragraphs of this Complaint.

21 33. The PRA, RCW 42.56.070, requires disclosure of public records
22 “unless the record falls within the specific exemptions of subsection [9] of this
23 section, this chapter, or other statute which exempts or prohibits disclosure of
24 specific information or records....”

25
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1 34. Statutes that protect trade secrets from disclosure constitute “other
2 statutes” under RCW 42.56.070, exempting trade secrets from disclosure under the
3 PRA.

4 35. Washington has adopted the Uniform Trade Secrets Act (“UTSA”),
5 RCW 19.108.010 *et seq.*

6 36. The UTSA defines “trade secret” as “information, including a
7 formula, pattern, compilation, program, device, method, technique, or process that:

8 a. Derives independent economic value, actual or potential, from
9 not being generally known to, and not being readily
10 ascertainable by proper means by, other persons who can obtain
11 economic value from its disclosure or use; and

12 b. Is the subject of efforts that are reasonable under the
13 circumstances to maintain its secrecy.” (RCW 19.108.010(4).)

14 37. The Defend Trade Secrets Act, 18 U.S.C. § 1836, contains a similar
15 definition of trade secrets that is also applicable in this case. The Protected
16 Information at issue in this case consists of trade secrets, as defined under both
17 Washington and federal law. Those trade secrets include detailed information
18 about the structure and architecture of the Workday platform, its unique
19 combination of capabilities and functions, Workday’s service-level agreements,
20 and the platform’s accessibility functionality. The value of this Protected
21 Information can be seen in a variety of ways, including its value to competitors.

22 38. The Workday Protected Information comprises and contains methods,
23 techniques, and processes that derive independent economic value from not
24 generally being known to, and not being readily ascertainable by proper means by,
25 other persons who can obtain economic value from its disclosure or use. As
26

1 discussed herein, Workday is careful to disclose these materials only to customers
2 or potential customers who agree to confidentiality.

3 39. In addition, Workday takes various reasonable measures to maintain
4 the secrecy of the Protected Information. As noted, Workday requires employees,
5 customers and potential customers, including WSU, to agree to confidentiality.
6 Furthermore, Workday marks any document containing its trade secret information
7 with a designation such as “confidential” or “proprietary.” In the Proposal to
8 WSU, for example, Workday included the specific PRA exemption applicable to
9 the Protected Information.

10 40. Workday’s efforts to preserve the trade secret status of the Protected
11 Information can also be seen in this Court action. Moreover, Workday has
12 previously sought and obtained injunctive relief against a similar PRA disclosure
13 by the University of Washington.

14 41. The release of the Protected Information would clearly not be in the
15 public interest. The Protected Information was requested by a private business, the
16 Tambellini Group, for its private purposes. Those purposes include advising
17 Workday competitors on how to develop and market products to Workday’s
18 clients. If such sensitive information is subject to disclosure now, Workday and
19 other vendors may be far less willing to share valuable details about their products
20 or forgo bidding for government contracts altogether out of a concern that their
21 information will later be disclosed to and used by their competitors. State agencies
22 then may be faced with fewer qualified bidders and/or less comprehensive and less
23 accurate information upon which to make major purchasing decisions. This
24 chilling effect would clearly harm the public’s interest in maintaining a
25 competitive environment in which public contracts are awarded at the lowest cost,
26 based on the best available information, and with the best available technology.

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1 42. Disclosure of the Protected Information would substantially and
 2 irreparably damage Workday, as doing so would directly impact Workday's ability
 3 to protect the commercial value of its products and to obtain future business, and
 4 would also invite Workday's competitors to exploit that disclosure against
 5 Workday in the marketplace.

6 43. Pursuant to RCW 42.56.070 and RCW 42.56.540, Workday is entitled
 7 to an order from this Court barring Defendant from releasing the Protected
 8 Information at issue in this case. Workday requests an immediate temporary
 9 restraining order and a preliminary and permanent injunction barring Defendant
 10 from disclosing the Protected Information.

11 **SECOND CAUSE OF ACTION**

12 **Injunctive Relief Under RCW 42.56.540**

13 44. Workday re-alleges and incorporates by reference the allegations
 14 contained in all previous paragraphs of this Complaint.

15 45. RCW 42.56.270(1) exempts from disclosure "[v]aluable formulae,
 16 designs, drawings, computer source code or object code, and research data
 17 obtained by any agency within five years of the request for disclosure when
 18 disclosure would produce private gain and public loss."

19 46. The Protected Information, which Workday provided to WSU within
 20 the last five years, comprises designs that are of substantial value to Workday and
 21 to its competitors. As noted, the Protected Information reveals the Workday
 22 platform's unique structure and functionality, by which Workday maintains a
 23 substantial competitive advantage. Competitors could obtain substantial value
 24 from exploiting the Protected Information in product development and marketing.
 25
 26

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1 47. Disclosure of the Protected Information will result in private gain to
2 the Tambellini Group, which will use Workday's Protected Information in its
3 private efforts to advise competitors on product development and marketing.

4 48. Disclosure of the Protected Information will also cause public loss. If
5 a vendor's sensitive information is subject to disclosure after submitting a
6 Proposal, Workday and other vendors may be far less willing to share valuable
7 details about their products or may forgo bidding for government contracts
8 altogether out of concern that their information will later be disclosed to and used
9 by their competitors. Public agencies then may be faced with fewer qualified
10 bidders and/or less comprehensive and less accurate information upon which to
11 make major purchasing decisions. The loss of this information not only deprives
12 the public of critical information to guide major purchasing decisions, it also risks
13 inefficient expenditure of public resources on products that poorly serve the
14 public's needs.

15 49. Pursuant to RCW 42.56.270(1) and RCW 42.56.540, Workday is
16 entitled to an order from this Court barring Defendant from releasing the Protected
17 Information at issue in this case. Workday requests an immediate temporary
18 restraining order and a preliminary and permanent injunction barring Defendant
19 from disclosing the Protected Information.

20 **THIRD CAUSE OF ACTION**

21 **Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202**

22 50. Workday re-alleges and incorporates by reference all allegations
23 contained in the previous paragraphs of this Complaint.

24 51. Workday and WSU entered a valid and binding mutual NDA to
25 govern the exchange of confidential, proprietary and trade-secret information.
26

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53. Because Workday's Protected Information is exempt from disclosure under the PRA, as set forth above, WSU is not required by law to disclose the Protected Information, and doing so would therefore violate the NDA.

54. As an actual, substantial, and justiciable controversy exists between Workday and WSU, Workday seeks a declaratory judgment under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, declaring that the Protected Information: (1) is exempt from disclosure under the PRA; (2) its disclosure is therefore not permitted under the NDA; and (3) it may not be disclosed for any purpose without the express permission of Workday.

WHEREFORE, Workday prays that judgment be entered in its favor and against Defendant as follows:

1. On the First and Second Causes of Action, for an Order temporarily and permanently enjoining WSU from releasing the Protected Information. Workday specifically requests a temporary restraining order, a preliminary injunction, and a permanent injunction.

2. On the Third Cause of Action, for a Declaratory Judgment that:

- a. the Protected Information is exempt from disclosure under the PRA;
- b. disclosure of the Protected Information is not permitted under the NDA; and
- c. the Protected Information may not be disclosed by WSU for any purpose without the express permission of Workday.

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3. For costs and expenses, if applicable, for violation of any of the cited statutes or of any of Workday's rights.

4. For interest, pre- or post-judgment, if applicable.

5. For any other relief to which Workday is entitled under the law.

DATED this 30th day of December, 2019.

FOSTER GARVEY PC

By: s/ Todd Reuter

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COMPLAINT FOR INJUNCTIVE AND
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